

Panther Leader Ordered To Stand Trial A Third Time

OAKLAND, Calif. (AP) — A judge has ordered Black Panther cofounder Huey P. Newton to trial a third time in the 1967 slaying of a rookie policeman.

Presiding Superior Court Judge William Hayes set Oct. 12 for Newton's retrial on a manslaughter charge, despite objections from defense attorney Charles Garry who said he had other court commitments.

"I will not be there," Garry told newsmen after the hearing Tuesday.

Newton's second trial ended in a mistrial Sunday when, after six days of deliberations, a jury of 10 women and 2 men announced itself hopelessly deadlocked, 11 to 1, and unable to render a verdict.

His first conviction in 1968 was overturned last year by the State Court of Appeal on grounds trial Judge Monroe Friedman had committed "reversible error" in neglecting to instruct jurors on the defense of unconsciousness.

Originally charged with first-degree murder, Newton was convicted of voluntary manslaughter and sentenced to a prison term of 5 to 15 years. He was confined 22 months before the appeals court ordered a new trial.

Garry, in objecting to the Oct. 12 date, asked for a 90-day continuance.

After a heated exchange between Garry and Hayes over the request, Hayes declared: "I'm running this court."

Newton stood beside Garry during the proceedings. He spoke once to say "I am willing to waive time" when the judge told him he was entitled by law to a trial within 60 days.

FROSTY APPLE- LEMON BUBBLE

In a tall glass, combine equal portions of chilled apple juice and carbonated lemon and lime drink. Top with a scoop of lemon or lime sherbet and a sprig of mint. Serve with straws.

Dist. Atty. Lowell Jensen said earlier Newton "certainly" would be retried because "this is not a normal case. It involves the slaying of a police officer—about the most serious offense we can think of."

The prosecution claimed Newton shot John Frey, 23, on Oct. 28, 1967, after the policeman stopped Newton's car for a traffic check. Newton claimed he was unarmed and lost consciousness when wounded in the abdomen by a bullet.

The defense argued Frey was shot by officer Herbert Heanes, 28, who came to Frey's assistance. Heanes denied shooting Frey.

Under California law, unconsciousness is a legal defense and a jury can find a defendant innocent if it holds the crime was committed while the defendant was in a state of mental blackout.

Newton has been free on \$50,000 bail since Aug. 7, 1970.